IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 911 OF 2006.

Smt.Ashadevi Subhedar Jayswar,
age about 40 years, resident of
Matang Rishi Nagar Hutment,
Lane No.3, Mandala,
Mankhurd, Mumbai 400 043. ... Petitioner.

Versus.

1. Deputy Commissioner of Police,
Zone VI, Mumbai.

2. Asstt.Commissioner of Police,
Trombay Division, Mumbai.

3. The State of Maharashtra,
(through the Home Secretary,
Appeals & Security, Home Deptt.,
Mantralaya, Mumbai. ... Respondents.

Shri R.S.Dave i/by Ms.Pranjali Joshi for the Petitioner.

Shri S.V.More, A.P.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 11th September, 2006.

ORAL JUDGMENT.:

1. By this petition, the Petitioner has challenged the order dated 20th December 2005 passed by the 1st Respondent under section 56 of the Bombay Police Act, 1951. By the said order, the Petitioner has been ordered to be externed from Thane, Mumbai, Mumbai Suburban, and Raigad Districts for a period of two years. The Petitioner has also challenged the order dated 27th March 2006 passed by the 3rd Respondent in the statutory appeal by which the order dated 20th December 2005 has been confirmed.

2. The learned Advocate for the Petitioner submitted that even according to the case of the 1st Respondent all the alleged prejudicial activities of the Petitioner are confined to the area within the jurisdiction of Shivaji Nagar Police Station and Govandi in Mumbai. He submitted that no reasons are mentioned in the order for extending the order of externment to Thane and Raigad Districts. He submitted that the order of externment is excessive and deserves to be quashed and set aside. He placed reliance on a decision of this Court in the case of Ganpat alias Ganesh Tanaji Katare v/s. Assistant Commissioner Police and others (2005 All M.R.(Cri.) page 2717). The learned A.P.P. supported the impugned orders by pointing out the nature of prejudicial activities of the Petitioner.

3. I have considered the submissions. A perusal of the show-cause notice issued to the Petitioner shows that there are two offences registered against the Petitioner at Shivaji Nagar Police Station at Mumbai under section 379 read with section 34 of the Indian Penal Code. The Respondent No.1 has placed reliance on in-camera statements of witnesses A and B. The allegations made by the said witnesses relate to the area of Govandi in Mumbai. In the order of externment it is stated that considering the proximity between Thane, Mumbai, Mumbai Suburban, and Raigad Districts and availability of fast modes of transport, the order of externment was being passed extending to four districts.

4. The learned A.P.P. placed reliance on the decision of the Apex Court in the case of Pandharinath Shridhar Rangnekar v/s. Deputy Commissioner of Police, reported in (1973) 1 S.C.C. page 372 and submitted that the Apex Court has upheld an order of externment externing the Petitioner before the Apex Court from the Districts of Mumbai and Thane on the ground of availability of fast modes of transport. A perusal of the said decision shows that the Apex Court confirmed the view taken by this Court on the ground that the view taken by this Court pertains to the matters of local colour and conditions. The Apex Court accepted the view that the Greater Bombay and Thane Districts are intimately connected with each other not only considering the several modes of communications but other factors such as continuous industrial area, availability of suburban trains etc. It was also accepted that the said two districts form a single unit. That is the reason why the Apex Court confirmed the externment of the Petitioner before it whose activities were confined to Greater Mumbai, though the order of externment related to the districts of Greater Mumbai and Thane.

5. In the present case it cannot be said that the Districts of Thane, Mumbai, Mumbai Suburban and Raigad are intimately connected to each other and they form one unit. In a given case the order of externment could

have been passed extending to the area which is larger than the area to which the prejudicial activities of the externee are confined. However, the area to which the order of externment is to operate must be chosen with a view to meet the situation created by prejudicial acts of the person sought to be externed. In the present case, no reasons are assigned save and except the availability of various modes of fast transport and the geographical proximity. In my view the decision of this Court in the case of Ganpat alias Ganesh Tanaji Katare (supra) will squarely apply to this case. Hence the petition must succeed and I pass the following order:

O R D E R

i) Rule is made absolute in terms of prayer clauses (c) and (d).

ii) The impugned order of externment is quashed and set aside.

iii) This order is will not prevent the Respondents from taking appropriate action against the Petitioner in accordance with the law.

iv) The parties to act on an authenticated copy of this order.

Judge.